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MEASURES TO ELIMINATE INTERNATIONAL TERRORISM

SECURITY COUNCIL
Forty-ninth year

Letter dated 8 August 1994 from the Permanent Representative of Argentina to the United Nations addressed to the Secretary-General

I have the honour to request that you have the document prepared by the Argentine Republic concerning the terrorist attack of 18 July 1994 on the headquarters of the Argentine Jewish Mutual Aid Association (see annex) circulated as a document of the General Assembly, under item 145 of the provisional agenda, and of the Security Council.

(Signed) Emilio J. CARDENAS
Ambassador
Permanent Representative

* A/49/150.

Annex

Document prepared by the Argentine Republic concerning the terrorist attack of 18 July 1994 on the headquarters of the Argentine Jewish Mutual Aid Association

The Argentine Republic requested a meeting of the Security Council, which convened in informal session on 29 July 1994, in order to draw the Council's attention to the cruel attack on the headquarters of the Argentine Jewish Mutual Aid Association which, because of its nature and scope, transcended national frontiers. It requested that meeting also because it is aware that the transnational scourge of terrorism, like others that today affect international peace and security, should be dealt with in a comprehensive manner by the community of civilized nations, within the framework of international law.

The Vienna Declaration and Programme of Action, adopted on 25 June 1993 at the World Conference on Human Rights, states in paragraph 17 of part I: "The acts, methods and practices of terrorism in all its forms and manifestations as well as linkage in some countries to drug trafficking are activities aimed at the destruction of human rights, fundamental freedoms and democracy, threatening territorial integrity, security of States and destabilizing legitimately constituted Governments. The international community should take the necessary steps to enhance cooperation to prevent and combat terrorism."

The General Assembly has recently dealt with the problem of terrorism. In its resolution 48/122 of 20 December 1993, entitled "Human rights and terrorism", the Assembly calls upon States, in accordance with international standards of human rights, to take all necessary and effective measures to prevent, combat and eliminate terrorism, and also urges the international community to enhance cooperation in the fight against the threat of terrorism at national, regional and international levels.

Moreover, in June 1994, in the Declaration of Belém do Pará, the States members of the Organization of American States declared their resolve to cooperate in concerted efforts to prevent and punish terrorist acts, methods and practices and to develop international law in that area.

It may be considered that such rhetorical exhortations point to the path to be taken and define precisely the terms of the problems. The aforementioned resolutions place these problems in their correct context but cannot substitute for the measures necessary to eliminate them. Specific actions to combat this serious threat are necessary now, and Argentina believes that a balanced assessment of the threat posed by terrorism and the irreparable damage that it causes, together with its intrinsically political and international nature, would allow it to be included in the agenda of the Security Council. Without a doubt, that would constitute a very positive first step in working out a method to put a stop to such acts of barbarism. It is imperative that the Security Council, which has primary responsibility for the maintenance of international peace and security, deal with this grave problem and begin to consider making recommendations to States Members of the United Nations on ways to combat this international scourge.

In this regard, it seems that the time has come to rethink the norms that currently govern the immunity of diplomatic agents and the inviolability of their headquarters. The sharp rise in all kinds of criminal activities, in particular terrorism, all over the world makes it necessary to update the norms that in the past codified international relations in order to enable the international community to deal with the serious challenges that such activities pose. For example, it is not permissible that clear evidence concerning illicit acts carried out under the protection of diplomatic immunity should go unpunished, since this would be contrary to the spirit and letter of the Vienna Convention on Diplomatic Relations. Such a situation could never have been in the minds of the authors of the Convention, who nobly sought to ensure the viability of that natural instrument of international relations, which we call diplomacy, in the most practical, effective and ethical manner possible.

If brought up to date, diplomatic law would acquire renewed legitimacy and prevent situations in which the gravest international crimes, such as international terrorism, illicit drug-trafficking and other crimes against the peace and security of mankind, take place under its protection. In such cases - and only in such cases - the legitimate interest of the international community requires that diplomatic immunities should not constitute an obstacle to the workings of justice and law.

We therefore believe that, in such cases, it is necessary to consider, as a matter of the greatest urgency, ways in which the United Nations, through its competent bodies, can contribute to the protection of the interests of the affected State.

In this context, Argentina wonders whether it is not time to create some mechanism for immediate international action in situations where a country is affected by the aforementioned serious crimes, which would automatically generate an "international case", thus preventing such serious crimes from going unpunished as a result of the strict application of the Vienna Convention, or preventing the wronged State from having to resort to possible actions in order to ensure that its security was not jeopardized.

A mechanism such as the one just suggested would have an adequate normative base in the teleological interpretation of article 41 of the Vienna Convention on Diplomatic Relations, which stipulates the incompatible uses of the immunities of diplomatic agents and the inviolability of their headquarters. In particular, in our opinion, the sheltering of terrorists or persons who are strongly suspected of having committed crimes or aberrant acts, is clearly incompatible with the inviolability of the premises of a diplomatic mission. Legal opinions concerning such persons, which have been developed on the basis of the most modern international practice already exist. Without wishing to analyse these opinions, a question which goes beyond the competence of the Security Council, Argentina believes that they should be examined, as a matter of urgency, with a view to incorporating them in the Vienna Convention on Diplomatic Relations. This is a specific proposal that we shall submit for consideration by competent United Nations bodies.

We should like to emphasize that this proposal should not be interpreted to the detriment of the right of asylum, refuge and other international norms in this area, when the application of such norms is justified.

In sum, Argentina considers that action by the United Nations to combat international terrorism should be as intense as the action it has taken to combat other serious international crimes. In this regard, Argentina considers that adequate mechanisms should be established within the Organization for this purpose. This is the second proposal that Argentina wishes to make.

In conclusion, we should like to repeat what the Argentine Minister for Foreign Affairs said, during the general debate in the General Assembly at its forty-seventh session, with regard to the attack on the Embassy of Israel in Buenos Aires, which took place on 17 March 1992: "Terrorism does not deserve any interrogator. Only the most resolute, determined and implacable commitment on the part of every State to combat it until it is eliminated". To that statement, we should today like to add that, while individual efforts might guarantee a modicum of efficiency, success in this arduous undertaking will only be ensured by the concerted efforts of all States.